

STEVEN T. KIRSCH
13930 La Paloma Road
Los Altos Hills, CA 94022
Phone: (650) 941-0248
Facsimile: (408) 716-2493
Email address: stk@propel.com
In pro per

JOHN C. BROWN (State Bar # 195804)
Redenbacher & Brown, LLP
580 California Street, Suite 1600
San Francisco, California 94104
Phone: (415) 409-8600
Facsimile: (415) 520-0141
Email: jbrown@redbrownlaw.com

Attorneys for Defendant, STEVEN T. KIRSCH

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

HOWARD HERSHIPS,

Plaintiff,

vs.

THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF CALIFORNIA, *et al.*,

Defendants.

Case No.: C 06-CV-6644 JF/RS

**[PROPOSED] ORDER GRANTING
MOTION BY STEVEN T. KIRSCH TO
DISMISS COMPLAINT (F.R.C.P.
12(b)(6))**

Date of Motion: September 5, 2008
Time of Motion: 9:00 a.m.
Ctm: #3, 5th Floor
Judge: The Hon. Jeremy Fogel
Case Filed: October 25, 2006
Trial date: None

This matter is before the Court on the Motion to Dismiss under F.R.C.P. 12(b)(6) brought by defendant Steven T. Kirsch. After reviewing all matter submitted relating to this motion, the Court determines that plaintiff Howard Hershops has not alleged that he has been damaged by the

1 violation of any civil right. Further, Herships has not alleged that Kirsch is a “state actor” and, as
2 such, Kirsch cannot be liable for violation of “civil rights.” Finally, Herships fails to allege
3 specifics of an agreement between Kirsch and a “state actor” to conspire to deprive him of his civil
4 rights, and, as such, Kirsch cannot be liable for “conspiracy to violate civil rights.”

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6 For the foregoing reasons, the Motion To Dismiss of defendant Steven T. Kirsch is GRANTED
7 and the claims of Howard Herships against Steven T. Kirsch are dismissed with prejudice.

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9 **IT IS SO ORDERED.**

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11 Dated: _____

12 THE HON. JEREMY FOGEL
13 UNITED STATES DISTRICT JUDGE
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